

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NORTH DAKOTA

In re:) Bankr. Case No. 16-30672
)
Vortex Drain Tiling LLC,) Chapter 7
)
Debtor.) **NOTICE AND MOTION FOR SALE OF**
) **REAL ESTATE FREE AND CLEAR OF**
) **LIENS AND ENCUMBRANCES**
) **PURSUANT TO 11 U.S.C. § 363(f)**

1. Forrest C. Allred, the trustee of the bankruptcy estate of the above-named debtor, hereby seeks to sell certain real estate free and clear of liens and encumbrances, pursuant to 11 U.S.C. 363(f).

2. This court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Fed. R. Bank. P. 6004. This proceeding is a core proceeding. On December 28, 2016, the debtor filed a voluntary petition for relief under chapter 7 of title 11 of the United States Code (the "Bankruptcy Code"). The case is now pending in this court.

3. This motion arises under 11 U.S.C. § 363(f) and Fed. R. Bankr. P. 6004.

4. The Trustee requests that the Court issue an order authorizing the sale of the following real estate, free and clear of all liens and encumbrances:

Lots 3 and 4, Block 2, Senske's Second Addition to the City of Grand Forks, Grand Forks County, North Dakota.

5. The trustee proposes to sell the Property to Verso Properties LLP, 1627 Kingsview Dr., Grand Forks, ND 58201, for the sum of \$45,000.00. The Trustee has a Purchase Agreement with the purchaser, setting forth the terms of the sale with a sale closing date of December 17, 2018.

6. The Property is encumbered by a contract for deed with McM, Inc., as seller, filed with the Grand Forks County Recorder on December 23, 2014, as Document No. 749369. The balance due on the contract as of January 31, 2018, was principal of \$21,913.63, interest of \$1,680.55, and late fees of \$4,500.00. Interest continues to accrue from and after January 31, 2018, at the rate of \$3.00 per day. Late fees continue to accrue after January of 2018 at the rate of \$250.00 per month. On the anticipated sale date, the amount needed to pay off the contract for deed will be approximately \$31,800.00.

7. Pursuant to the Purchase Agreement:

- a. The seller will pay the following portion of general real estate taxes and special assessments and no others, regardless of when accrued, assessed, levied, certified, or payable:

- i. General real estate taxes assessed prior to January 1, 2018, in the amount of \$3,861.00.
 - ii. General real estate taxes assessed on or after January 1, 2018, in the amount of \$2,131.00.
- b. Seller's obligation for the cost of owner's title insurance shall be limited to \$200.00.
- c. Seller's obligation for the cost of mortgagor's title insurance shall be limited to \$200.00.
- d. Seller's obligation for the cost of a settlement agency's fee shall be limited to \$250.00.

8. The estate will also be liable for a commission to Trustee's real estate agent, in the amount of \$2,400.00.

9. After all of the foregoing costs and expenses of sale, the estate will be left with \$35,968.00 with which to satisfy the remaining indebtedness on the contract for deed, in the approximate amount of \$31,800.00. As such, the estate will have left approximately \$4,168.00 to apply to administrative expenses of the state and claims of creditors.

10. The Trustee requests authority to sell the real property on the terms and conditions above, as well as authority to pay the aforesaid closing costs, and the remaining balance on the contract for deed.

11. The Trustee requests that the sale be made free and clear of liens and encumbrances, pursuant to 11 U.S.C. 363(f) and that the Court issue an order finding that all liens and encumbrances against such property be avoided. The liens and encumbrances which the trustee seeks to avoid include, but are not limited to the following:

- a. General real estate taxes assessed prior to January 1, 2018, in the amount of \$3,861.00.
- b. General real estate taxes assessed on or after January 1, 2018, in the amount of \$2,131.00.
- c. The remaining indebtedness to McM, Inc., in the approximate amount of \$31,800.00 as of the anticipated closing date.

12. The Property may be sold free and clear of real estate tax liens and the balance owed to McM., Inc., pursuant to 11 U.S.C. 363(f)(3) because the price at which the Property is to be sold is greater than the aggregate value of these liens.

13. To the Trustee's knowledge, after a thorough and diligent search, no liens or encumbrances other than those described above, exist against the Property.

14. Based on the foregoing, the Trustee respectfully requests an order of this Court authorizing the sale of the Property free and clear of the above referenced liens and that he be authorized to distribute the sale proceeds as follows:

- a. To Grand Forks County for general real estate taxes assessed prior to January 1, 2018, in the amount of \$3,861.00.
- b. To Grand Forks County for general real estate taxes assessed on or after January 1, 2018, in the amount of \$2,131.00.
- c. To McM, Inc., in the approximate amount of \$31,800.00, for the remaining balance owed on the contract for deed.

15. The Trustee respectfully requests that the Court issue an order authorizing the sale of the real estate free and clear of liens, avoiding all liens against the real estate, and that the sale proceeds be distributed as requested, and that the court waive the stay otherwise provided by Fed. R. Bankr. P. 6004(h).

NOTICE OF MOTION: Your rights may be affected in this action. You should read these papers carefully and discuss the matters with your attorney if you have one. Any objections to this motion must be made within 21 days of this date with an original filed with the Clerk of Bankruptcy Court and copies served upon the Bankruptcy Trustee and United States Trustee at the addresses stated below. Failure to timely respond to this motion will be deemed a waiver of any objections and the Court will grant such relief as it deems appropriate.

Clerk, U.S. Bankruptcy Court Quentin N Burdick U. S. Courthouse 655 1st Ave N - Ste 210 Fargo, ND 58107-4932	U.S. Trustee 314 S Main Ave Suite 303 Sioux Falls SD 57104-6462	Trustee (see address below)
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DATED this 15th day of November, 2018.

/s/ Forrest C. Allred
Forrest C. Allred
Chapter 7 Trustee
14 2nd Ave SE, Suite 200
Aberdeen, SD 57401
Telephone: (605) 225-3933
Fax: (605) 225-3933